

PERFORMANCE ASSESSMENT FOR

Le Petomane XXVII, Inc., not individually, but solely in its representative capacity as Trustee of the Nevada Environmental Response Trust (“NERT” or “Trust”)

[Effective Date of Trust: February 14, 2011]

PERIOD OF PERFORMANCE: January 1, 2017 to December 31, 2017

Consolidated Review by NDEP Bureau of Industrial Site Cleanup and U.S. EPA Region 9

Ratings: EE-Exceeds Expectations; ME-Meets Expectations; DNME-Does Not Meet Expectations

CATEGORY	TRUSTEE ACTIONS	RATING	
1. Quality of Service:		(2016)	2017
	A. Fulfillment of core Trust Requirements.	(ME)	ME
	B. Ownership of the Henderson Property.	(EE ₁)	EE
	C. Performance of administrative and property management functions related to the Henderson Property.	(ME)	ME
	D. Management and/or funding implementation of Environmental Actions for the Henderson Legacy Conditions that are approved by the Henderson Lead Agency and the payment of future oversight costs of the Lead and Non-Lead Agency.	(ME)	EE ₉
	E. Pursing claims and obtaining recoveries under the Henderson Chartis Policy.	(EE ₂)	EE
	F. Actions as landlord under the Henderson Facility Lease.	(ME)	ME
	G. Actions as substitute party for Tronox LLC under the 2006 Henderson Consent Decree.	(EE ₂)	EE
	H. Accuracy of reports/deliverables.	(ME)	ME
	I. Effectiveness of personnel.	(ME)	ME
	J. Technical excellence.	(ME)	ME
	K. Effectiveness of quality control program.	(ME)	ME
2. Cost Control:			
	A. Budget estimate accuracy and cost control.	(EE ₃)	EE ₁₆
	B. Current, accurate, supported and complete fee applications.	(ME)	ME
	C. Cost efficiencies or deficiencies.	(EE ₆)	EE ₁₆
3. Schedule:			
	A. Maintains current project schedule with regular updates.	(ME)	ME
	B. Met project interim milestones (see attached).	(ME)	ME
	C. Responsiveness to technical feedback.	(ME)	EE ₁₀
	D. Met deliverables schedules.	(ME)	ME
4. Business Relations:			
	A. Effective management.	(ME)	ME

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CATEGORY	TRUSTEE ACTIONS	RATING	
	B. Reasonable/cooperative.	(EE4)	EE
	C. Responsiveness to Trust Requirements.	(ME)	ME
	D. Informs of issues/problems.	(EE4)	ME ₁₁
	E. Flexibility.	(EE7)	EE ₁₂
	F. Pro-active vs. reactive.	(EE7)	EE ₁₃
5. Management of Key Personnel:			
	A. Effective management.	(ME)	EE
	B. Reasonable/cooperative.	(ME)	ME
	C. Responsiveness to Trust Requirements.	(ME)	ME
	D. Informs of issues/problems.	(EE4)	EE ₁₄
	E. Flexibility.	(ME)	ME
	F. Pro-active vs. reactive.	(ME)	ME
6. Environmental Performance:			
	A. Overall progress towards NERT site goals	(ME)	EE ₁₅
	B. Projects on schedule to meet Final Remedy timeframes	(ME)	ME
	C. Perchlorate mass removal from groundwater met projections and milestones. ⁸	(NA ₅)	EE ₁₇
	D. Decrease in Perchlorate loading to Las Vegas Wash along NERT RI Study Area and Downgradient Study Area.	(ME)	ME
	E. Provide multiple lines of evidence to demonstrate the effective management of the plume and plume shrinkage	(ME)	ME

Footnotes (2016):

1. The NERT has continued an active role as owner of the Henderson property and has taken a leadership role with the Timet perchlorate project and the Phase II investigation of the Eastside.
2. The NERT received payment for 100% of the claims submitted under the AIG policy and payment representing 100% of the 2015 demand (plus interest) under the 2006 Consent Decree. The NDEP recognizes that this payment rate is well above average and justifies the EE rating for these categories.
3. The NERT has taken steps to reduce actual costs of projects including reducing or eliminating specific line items in consultant invoices, and adjusting schedules to obtain lower costs on their own without the request of the lead or non-lead agency.
4. The NERT does an exceptional job at notifying the lead agency immediately of issues or problems that could wait for a Monthly/Semiannual Report, keeping the lead and non-lead agency informed of both major and minor items at the Site as they arise.
5. NERT was not able to increase perchlorate mass removal from groundwater to meet 2016 projections and milestones. During the calendar year it became clear that current site conditions would make this technically infeasible without incurring additional expense and without providing additional information to contribute to the RI/FS. NERT, the US EPA and the NDEP agreed to suspend any additional efforts to attempt to reach the 15% increase in perchlorate mass removal over baseline conditions.
6. During the 2016 Stakeholders Pre-Meeting NERT explained its internal decision making process and internal cost controls to the US EPA and NDEP. This insight along with other planned cost controls elevated this category to EE.
7. During the 2016 calendar year the NERT has demonstrated its ability to be flexible to evolving understanding of site conditions and to changing directives from the lead and non-lead agencies. Additionally the NERT has proven the ability to come up with independent ideas and strategies for the COP and Treatability Studies and Pilot Tests for use in the RI/FS process without direction from the lead and non-lead agencies.

Footnotes (2017)

8. Targeting the removal of 400,000 pounds of perchlorate from the environment in 2017.

9. NERT worked with the Lead Agency to implement the SNWA Weir Treatment System Action Memo under a shifting timeframe and multiple uncertainties, and incorporated previously missing areas to the Site as part of the Phase 3 Work Plan per direction of NDEP/US EPA to ensure a comprehensive conceptual site model of the Henderson Legacy Conditions.
10. NERT saw the need to keep the NDEP/US EPA and Stakeholders updated and involve everyone in the Work Plan process and implemented the Stakeholder Technical Roundtables in 2017. This added cost and time paid off with fewer comments and revisions spent on the deliverables.
11. NERT on a few occasions did not immediately notify the Agencies on issues/problems (Perchlorate Lab Certification, and Ammonia in AP-5).
12. NERT implemented the SNWA Weir Treatment Action Memo under uncertain time frames and flow rates within the agreed upon due date and actively developed a Value Engineering program at the NDEP's request which, after presentation to NDEP/US EPA of the proposed approach and associated cost, was later modified to be an Independent Cost Evaluation again at the NDEP's request.
13. The NERT saw its Permit excursions fall from previous years by pro-actively installing secondary containment at lift stations and other locations (AP-5 double walled pipe, SNWA Weir Dewatering Plant, etc.).
14. Issues with NERT's GWETS Contractor ETI were reported and managed quickly, and personnel changes at ETI have improved operations.
15. NERT = developed an OU Strategy to give flexibility to move specific areas forward from RI to FS and Remedy sooner as necessary. NERT expanded the RI investigation to include the transitional muddy creek and muddy creek formation at multiple areas. NERT = expanded the RI to include the Eastside areas. NERT actively implemented treatability studies that area already supplying data that will be a part of the FS ahead of schedule.
16. During the NERT Pre-Meeting several examples of Cost Controls were discussed for both 2A and 2C.
 - a. Arcadis was added to the AP-5 Project to evaluate costs, this will be expanded to the Pilots and Studies;
 - b. RI Modifications based upon field observations were submitted to expedite the RI Schedule and reduce; document prep and review times, and to reduce demobilization costs;
 - c. Decrease of the scope of the background soils study by 40%;
 - d. Reduction of the scope of the VER Treatability Study to more of a proof of concept;
 - e. Several examples of using local vendors and contractors to save on travel costs;
 - f. Continued direct talks with third parties to reduce lawyer fees;
 - g. Transition AP wells from Tetra Tech to ETI;
 - h. Negotiate direct pay terms with specific vendors;
 - i. Have contractor pay for travel costs on RI phase II and III to be competitive;
 - j. Implement soils management on Weir Dewatering Plant saving significant costs on solids disposal
17. NERT exceeded the 400,000 pound GWETS removal target without relying on any treatability study numbers.